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12 Attorneys for Respondent MARTIN LUTHER KING, JR.-MARCUS  
13 GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 HO RIM KAM,

17 Petitioner,

18 vs.

19 MARTIN LUTHER KING, JR.-MARCUS  
20 GARVEY SQUARE COOPERATIVE  
21 BOARD OF DIRECTORS,

22 Respondent.

Case No.: C07-4414 SBA

**COPIES OF STATE COURT FILE  
28 U.S.C. 1446(a)**

23 Respondent submits the attached pleadings contained in the State file with the exception  
24 of Petitioner's Application For Peremptory Writ of Mandamus and supporting papers, which are  
25 attached to the Respondent's Notice of Removal filed with this pleading.

26 DATED: August 27, 2007

**KAUFMAN DOLOWICH & VOLUCK LLP**

27 

28 Katherine S. Catlos, Esq.

Attorneys for Respondent MARTIN LUTHER  
KING, JR.-MARCUS GARVEY SQUARE  
COOPERATIVE BOARD OF DIRECTORS

ROBERT BORTON (Bar No. 53191)  
 E-Mail: robert.borton@hellerehrman.com  
 CHRISTIN J. HILL (Bar No. 247522)  
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 HELLER EHRMAN LLP  
 333 Bush Street  
 San Francisco, CA 94104-2878  
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 Facsimile: (415) 772-6268

Attorneys for Petitioner  
 HO RIM KAM

SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

v.

MARTIN LUTHER KING, JR.-MARCUS  
 GARVEY SQUARE COOPERATIVE BOARD  
 OF DIRECTORS,

Respondent.

) Case No.: CPF 07-507493  
 ) LIMITED CIVIL CASE  
 )  
 ) *(JCA)*  
 ) **PROPOSED ORDER GRANTING**  
 ) **PETITIONER'S APPLICATION**  
 ) **FOR ORDER SHORTENING TIME**  
 ) **FOR NOTICE AND ADVANCING**  
 ) **HEARING DATE OF MOTION TO**  
 ) **FILE UNDER SEAL EXHIBIT E**  
 ) **FROM THE DECLARATION OF**  
 ) **HO RIM KAM AND THE**  
 ) **DECLARATION OF CHONG PARK**  
 ) **KAM**

Date: August 17, 2007  
 Time: 11:00 a.m.  
 Dept.: 301

The ex parte application of petitioner Ho Rim Kam for shortening the time of notice and advancing the hearing date for Ho Rim Kam's Motion to File Under Seal Exhibit E of the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam came on regularly

ENDORSED  
 FILED  
 San Francisco County Superior Court  
 AUG 17 2007  
 GORDON PARK-LI, Clerk  
 BY: JOCELYN C. ROQUE  
 Deputy Clerk

1 for hearing before this Court with Heller Ehrman LLP appearing as attorney for petitioner.  
2 Notice of the ex parte application was properly made.

3 After full consideration of the moving papers, the Court GRANTS petitioner's  
4 application to shorten time of notice and advance the hearing date of the Motion to File  
5 Under Seal. It is ordered that Petitioner Ho Rim Kam's Motion to File Under Seal Exhibit  
6 E of the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam will be heard  
7 at 9:30 a.m. on August 22, 2007, prior to the hearing of the Kam's Application for a  
8 Peremptory Writ of Mandamus.

9  
10 DATED: AUG 17 2007

PETER J. BUSCH

11 JUDGE OF THE SUPERIOR COURT  
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Reading

KAUFMAN DOLOWICH & VOLUCK LLP  
ELIZABETH WILLIAMS, ESQ. SBN 92374  
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Attorneys for Respondent MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS

**ENDORSED  
FILED**  
San Francisco County Superior Court  
AUG 28 2007  
GORDON PARKER, Clerk  
BY: CAROLYN BALISTRERI  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

vs.

MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE  
BOARD OF DIRECTORS,

Respondent.

Case No.: CPF 07-507493  
LIMITED CIVIL CASE

ACTION FILED: August 6, 2007

**RESPONDENT'S NOTICE OF MOTION  
TO FILE UNDER SEAL CERTAIN  
EXHIBITS IN SUPPORT OF  
RESPONDENT'S OPPOSITION TO  
PETITIONER'S PETITION FOR  
PEREMPTORY WRIT OF MANDAMUS**

Date: August 30, 2007  
Time: 9:30 a.m.  
Judge: Hon. Peter Busch  
Department: 301

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on August 30, 2007 at 9:30 a.m., or as soon thereafter as  
the matter may be heard, in Department 301 of the Superior Court of California of the County of  
San Francisco, located at 400 McAllister Street, San Francisco, California 94102-4514,  
Respondent MARTIN LUTHER KING, JR.-MARCUS GARVEY SQUARE COOPERATIVE  
BOARD OF DIRECTORS will and hereby does move this Court for an order filing under seal  
certain exhibits consisting of Petitioner's and his wife's private and confidential financial records  
to be submitted in support of Respondent's Opposition to Petitioner's Petition For Peremptory  
Writ of Mandamus, which is filed herewith.

//

This Motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, and all pleadings and papers filed in this action; and such other evidence and argument to be presented at the hearing on this motion.

DATED: 8/22/07

KAUFMAN DOLOWICH & VOLUCK LLP



Katherine S. Catlos, Esq.

Attorneys for Respondent MARTIN LUTHER  
KING, JR.-MARCUS GARVEY SQUARE  
COOPERATIVE BOARD OF DIRECTORS

KAUFMAN DOLOWICH & VOLUCK LLP  
ELIZABETH WILLIAMS, ESQ. SBN 92374  
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Telephone: (415) 402-0059  
Facsimile: (415) 402-0679

Attorneys for Respondent MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS

**ENDORSED  
FILED**  
San Francisco County Superior Court  
AUG 28 2007  
GORDON PARKER, Clerk  
BY CAROLYN BALSTREIN Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

vs.

MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE  
BOARD OF DIRECTORS,

Respondent.

Case No.: CPF 07-507493  
LIMITED CIVIL CASE

ACTION FILED: August 6, 2007

MEMORANDUM OF POINTS AND  
AUTHORITIES OF RESPONDENT IN  
SUPPORT OF MOTION TO FILE UNDER  
SEAL CERTAIN EXHIBITS IN SUPPORT  
OF RESPONDENT'S OPPOSITION TO  
PETITIONER'S PETITION FOR  
PEREMPTORY WRIT OF MANDAMUS

Date Set: August 30, 2007  
Time: 9:30 a.m.  
Judge: Hon. Peter Busch  
Department: 301

**I. INTRODUCTION**

Respondent MARTIN LUTHER KING, JR.-MARCUS GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS hereby moves this Court for leave to file under seal certain exhibits in support of Respondent's Opposition to Petitioner's petition for peremptory writ of mandamus because those exhibits contain confidential financial records of Petitioner and his wife. This Court has the authority under California Rule of Court Rule 2.550(d) to seal these exhibits.

**II. FACTUAL BACKGROUND**

This lawsuit arises from Petitioner's writ of mandamus against Respondent for enjoyment

and use of Petitioner's alleged office as Director and Treasurer of the Martin Luther King, Jr.-  
 Marcus Garvey Square Cooperative. The issues that this lawsuit presents turn on private  
 financial records of private shareholders of the Martin Luther King, Jr.-Marcus Garvey Square  
 Cooperative.

The primary issue of the controversy is Petitioner's alleged violation of Martin Luther  
 King, Jr.-Marcus Garvey Square Cooperative's by-laws. Respondent continues to investigate the  
 facts alleged by Petitioner. Nevertheless, certain exhibits in support of Respondent's Opposition  
 to Petitioner's petition for peremptory writ of mandamus should be sealed and provided to the  
 Court to ensure the Court has the complete set of information to consider Respondent's  
 Opposition to Petitioner's Application for Peremptory Writ of Mandamus.

### III. ARGUMENT

Pursuant to California Rule of Court 2.550(d), the court "may order that a record be filed  
 under seal if it finds that (1) there exists an overriding interest that overcomes the right of public  
 access to the record; (2) the overriding interest supports sealing the record; (3) a substantial  
 probability exists that the overriding interest will be prejudiced if the record is not sealed; and (4)  
 the proposed sealing is narrowly tailored; and (5) no less restrictive means exists to achieve the  
 overriding interest."

California courts have held that a contractual obligation not to disclose can constitute an  
 overriding interest within the meaning of [rule 2.550(d) precursor] rule 243.1(d)." *Universal  
 City Studios, Inc. v. Superior Court*, 110 Cal.App.4<sup>th</sup> 1273, 1283 (2003). Further, California  
 courts recognize that individuals have a privacy interest in their financial records. See e.g.  
*Gordon v. Superior Court*, 55 Cal. App. 4<sup>th</sup> 1546, 1557 (1997); *Valley Bank of Nevada v.  
 Superior Court*, 15 Cal. 3d 652, 656 (1975).

The information contained in certain exhibits in support of Respondent's Opposition to  
 Petitioner's petition for peremptory writ of mandamus contains private financial information of  
 Petitioner and his wife. There is no explicit contractual obligation not to disclose this financial  
 information. However, out of an excess of caution and in light of the fact that it is likely that  
 Petitioner and his wife would not want their financial information contained in certain exhibits to

be revealed to the public, Respondent makes this motion.

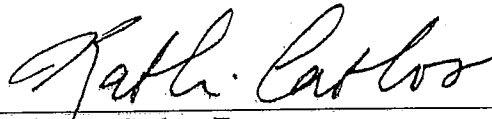
The proposed sealing is narrowly tailored and no less restrictive means exist.  
Information irrelevant to the case has been redacted.

**IV. CONCLUSION**

For the foregoing reasons, Respondent requests that the Court order certain exhibits in support of Respondent's Opposition to Petitioner's petition for peremptory writ of mandamus be filed under seal.

DATED: 8/22/07

KAUFMAN DOLOWICH & VOLUCK LLP



Katherine S. Catlos, Esq.

Attorneys for Respondent MARTIN LUTHER  
KING, JR.-MARCUS GARVEY SQUARE  
COOPERATIVE BOARD OF DIRECTORS



## PROOF OF SERVICE

*Kam v. Martin Luther King, Jr.-Marcus Garvey Square Cooperative Board of Directors*  
 CALIFORNIA SUPERIOR COURT, COUNTY OF SAN FRANCISCO, Case No. CPF 07-507493

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to this action. My business address is 351 California Street, Suite 500, San Francisco, California, 94104. On the execution date below and in the manner stated herein, I served the following documents:

1. RESPONDENT'S NOTICE OF MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S PETITION FOR PEREMPTORY WRIT OF MANDAMUS
2. MEMORANDUM OF POINTS AND AUTHORITIES OF RESPONDENT IN SUPPORT OF MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S PETITION FOR PEREMPTORY WRIT OF MANDAMUS

on all interested parties in this action by placing [ ] the original or [X] a true copy of the original thereof enclosed in sealed envelopes addressed as follows:

Robert Borton, Esq.  
 Christin J. Hill, Esq.  
 Daniel Kaufman, Esq.  
 Heller Ehrman LLP  
 333 Bush Street  
 San Francisco, CA 94104-2878  
 Tel: (415) 772-6000  
 Fax: (415) 772-6268  
 Attorney for Plaintiff HO RIM KAM

[X] BY MAIL I deposited such envelope(s) with postage thereon fully prepaid in the United States mail at a facility regularly maintained by the United States Postal Service at San Francisco, California. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing, pursuant to this affidavit.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 23, 2007, at San Francisco, California.

  
 Kim Daleiden

Pleading

KAUFMAN DOLOWICH & VOLUCK LLP

ELIZABETH WILLIAMS, ESQ. SBN 92374

KATHERINE S. CATLOS, ESQ. SBN 184227

ABRAHAM J. YACOBIAN, ESQ. SBN 235145

351 California Street, Suite 500

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Telephone: (415) 402-0059

Facsimile: (415) 402-0679

Attorneys for Respondent MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

vs.

MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE  
BOARD OF DIRECTORS,

Respondent.

Case No.: CPF 07-507493  
LIMITED CIVIL CASE

ACTION FILED: August 6, 2007

**EX PARTE APPLICATION TO  
SHORTEN TIME FOR NOTICE AND  
ADVANCE HEARING DATE FOR  
RESPONDENT'S MOTION TO FILE  
UNDER SEAL CERTAIN EXHIBITS IN  
SUPPORT OF RESPONDENT'S  
OPPOSITION TO PETITIONER'S  
PETITION FOR PEREMPTORY WRIT  
OF MANDAMUS (CRC §3.1200)**

Date: August 23, 2007

Time: 11:00 a.m.

Judge: Peter Busch

Department: 301

APPLICATION

Pursuant to California Rules of Court Rule 3.1200 et seq., Respondent MARTIN LUTHER KING, JR.-MARCUS GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS through its respective counsel, hereby file this EX PARTE APPLICATION TO SHORTEN TIME FOR NOTICE AND ADVANCE HEARING DATE FOR RESPONDENT'S MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S PETITION FOR PEREMPTORY WRIT OF MANDAMUS to be heard on August 23, 2007, at 11:00 a.m. in Department 301 or as soon as the matter can be

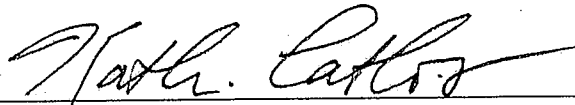
1 heard.

2 Petitioner brought a mandamus action against Respondent for enjoyment and use of  
3 Petitioner's alleged office as Director and Treasurer of the Martin Luther King, Jr. - Marcus  
4 Garvey Square Cooperative Board. In opposition to Petitioner's mandamus action, Respondent  
5 seeks to file under seal certain exhibits. These exhibits contain private financial information  
6 about Petitioner and his wife. To protect the privacy of the Petitioner and his wife, Respondent  
7 will file the attached Motion to File Under Seal Certain Exhibits In Support of Respondent's  
8 Opposition to Petitioner's Petition for Peremptory Writ of Mandamus to be heard on August 24,  
9 2007.

10 Per counsels' August 21, 2007 Stipulation, the hearing regarding Petitioner's Application  
11 for Peremptory Writ of Mandamus was continued from August 22, 2007 to August 30, 2007.  
12 Respondent's Opposition is due August 27, 2007. For the sake of judicial efficiency and to  
13 ensure the Court has the complete set of information to hear Petitioner's Application for  
14 Peremptory Writ of Mandamus, it is necessary that Respondent's Motion to File Under Seal  
15 Certain Exhibits In Support of Respondent's Opposition to Petitioner's Petition for Peremptory  
16 Writ of Mandamus be heard prior to the August 30, 2007 hearing. Accordingly, Respondent  
17 respectfully requests the Court permit Respondent's Motion to File Under Seal Certain Exhibits  
18 In Support of Respondent's Opposition to Petitioner's Petition for Peremptory Writ of  
19 Mandamus be heard on August 24, 2007. Petitioner's counsel does not intend to oppose the  
20 motion.

21  
22 DATED: 8/22/07

KAUFMAN DOLOWICH & VOLUCK LLP



Katherine S. Catlos, Esq.

Attorneys for Respondent MARTIN LUTHER  
KING, JR.-MARCUS GARVEY SQUARE  
COOPERATIVE BOARD OF DIRECTORS

**DECLARATION OF KATHERINE S. CATLOS**

I, Katherine S. Catlos, declare as follows:

1. I, Katherine S. Catlos of Kaufman Dolowich & Voluck LLP, am an attorney licensed to practice law in the State of California. Our firm is counsel for Respondent MARTIN LUTHER KING, JR.-MARCUS GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS. I make this declaration in support of this Application to Shorten Time for Notice and Advance Hearing Date for Respondent's Motion to File Under Seal Certain Exhibits In Support of Respondent's Opposition to Petitioner's Petition for Peremptory Writ of Mandamus. I have actual knowledge of the matters set forth in this declaration, and if called as a witness would competently testify.

2. On August 21, 2007 Kaufman Dolowich & Voluck LLP was retained to represent MARTIN LUTHER KING, JR.-MARCUS GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS. Ms. Catlos was unable to clarify the scope of her firm's representation until the morning of August 21, 2007.

3. At the time Kaufman Dolowich & Voluck LLP began to represent MARTIN LUTHER KING, JR.-MARCUS GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS, Petitioner's APPLICATION FOR PEREMPTORY WRIT OF MANDAMUS was set for a hearing on August 22, 2007.

4. After meeting and conferring, Ms. Catlos and Petitioner's counsel stipulated to continue the August 22, 2007 hearing to August 30, 2007, so as to provide Respondent adequate time to prepare an Opposition.

5. Respondent's Opposition to Petitioner's Application for Peremptory Writ of Mandamus is due August 27, 2007.

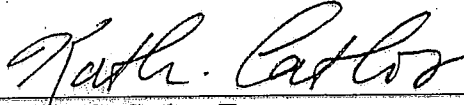
6. In order to oppose Petitioner's Application, Respondent will seek to file under seal certain exhibits on August 27, 2007. Given the fast approaching deadline to file the Opposition, and the confidential nature of the documents at issue, Respondent respectfully requests the matter be considered on August 23, 2007.

7. Petitioner's counsel does not oppose Respondent's Application to Shorten Time for Notice and Advance Hearing Date for Respondent's Motion to File Under Seal Certain Exhibits In Support of Respondent's Opposition to Petitioner's Petition for Peremptory Writ of Mandamus. (Please see Exhibit A. Attached hereto and incorporated by reference.)

8. This Application is based on the Ex Parte Application, the accompanying Declaration of Katherine S. Catlos and the papers and record on file in this case,

DATED: 8/22/07

KAUFMAN DOLOWICH & VOLUCK LLP



Katherine S. Catlos, Esq.

Attorneys for Respondent MARTIN LUTHER  
KING, JR.-MARCUS GARVEY SQUARE  
COOPERATIVE BOARD OF DIRECTORS

**EXHIBIT A**

**Katherine S. Catlos**

---

**From:** Katherine S. Catlos [kcatlos@kdvlaw.com]  
**Sent:** Wednesday, August 22, 2007 4:22 PM  
**To:** robert.borton@hellerehrman.com  
**Cc:** christin.hill@hellerehrman.com; daniel.kaufman@hellerehrman.com  
**Subject:** ex parte re seal exhibits - Kam v. MLK, SF Superior CPF07-507

Dear Mr. Borton:

Thank you for agreeing to not oppose our Application for an order shortening time to advance the hearing date for Respondent's motion to file under seal certain exhibits in support of Respondent's Opposition to Petitioner's Petition for Peremptory Writ of Mandamus. As discussed, we will be appearing at 11:00 a.m. in Department 301 in San Francisco Superior Court tomorrow for this ex parte. We appreciate your willingness to overlook the fact that we provided less than 24 hours notice re this Application. We will forward you the Application shortly.

Katherine S. Catlos, Esq.  
Kaufman Dolowich & Voluck LLP  
351 California Street, Suite 500  
San Francisco, California 94104  
Tel: (415) 402-0059  
Fax: (415) 402-0679  
email: [kcatlos@kdvlaw.com](mailto:kcatlos@kdvlaw.com)

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8/22/2007



ENDORSED  
FILED  
San Francisco County Superior Court

AUG 23 2007

GORDON PARK-LI, Clerk  
BY: JOCELYN C. ROQUE  
Deputy Clerk

KAUFMAN DOLOWICH & VOLUCK LLP  
ELIZABETH WILLIAMS, ESQ. SBN 92374  
KATHERINE S. CATLOS, ESQ. SBN 184227  
ABRAHAM J. YACOBIAN, ESQ. SBN 235145  
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Attorneys for Respondent MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE BOARD OF DIRECTORS

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

vs.

MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE  
BOARD OF DIRECTORS,

Respondent.

Case No.: CPF 07-507493  
LIMITED CIVIL CASE

ACTION FILED: August 6, 2007

~~[PROPOSED]~~ ORDER GRANTING  
RESPONDENT'S APPLICATION TO  
SHORTEN TIME FOR NOTICE AND  
ADVANCE HEARING DATE FOR  
RESPONDENT'S MOTION TO FILE  
UNDER SEAL CERTAIN EXHIBITS IN  
SUPPORT OF RESPONDENT'S  
OPPOSITION TO PETITIONER'S  
PETITION FOR PEREMPTORY WRIT  
OF MANDAMUS

Date: August 23, 2007  
Time: 11:00 a.m.  
Judge: Hon. Peter Busch  
Department: 301

The ex parte APPLICATION TO SHORTEN TIME FOR NOTICE AND ADVANCE  
HEARING DATE FOR RESPONDENT'S MOTION TO FILE UNDER SEAL CERTAIN  
EXHIBITS IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S  
PETITION FOR PEREMPTORY WRIT OF MANDAMUS came on regularly for hearing  
before this Court with Kaufman Dolowich & Voluck LLP appearing as attorney for Respondent.  
Notice of the ex parte application was properly made.

After full consideration of the moving papers, the Court GRANTS Respondent's  
Application to Shorten Time for Notice and Advance Hearing Date for Respondent's Motion to

- 1 -

~~[PROPOSED]~~ ORDER GRANTING RESPONDENT'S APPLICATION TO SHORTEN TIME FOR NOTICE AND  
ADVANCE HEARING DATE FOR RESPONDENT'S MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN  
SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF MANDAMUS



1 File Under Seal Certain Exhibits In Support of Respondent's Opposition to Petitioner's Petition  
2 for Peremptory Writ of Mandamus. It is ordered that Respondent's Motion to File Under Seal  
3 Certain Exhibits In Support of Respondent's Opposition to Petitioner's Petition for Peremptory  
4 Writ of Mandamus will be heard at 9:30 a.m. on August 30, 2007. (JCR)

5 **AUG 23 2007**

6 **PETER J. BUSCH**

7 DATED: \_\_\_\_\_  
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Honorable Judge Peter Busch  
Judge of the Superior Court

## PROOF OF SERVICE

*Kam v. Martin Luther King, Jr.-Marcus Garvey Square Cooperative Board of Directors*  
 CALIFORNIA SUPERIOR COURT, COUNTY OF SAN FRANCISCO, Case No. CPF 07-507493

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to this action. My business address is 351 California Street, Suite 500, San Francisco, California, 94104. On the execution date below and in the manner stated herein, I served the following documents:

1. EX PARTE APPLICATION TO SHORTEN TIME FOR NOTICE AND ADVANCE HEARING DATE FOR RESPONDENT'S MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S PETITION FOR PEREMPTORY WRIT OF MANDAMUS (CRC §3.1200)
2. ORDER GRANTING RESPONDENT'S APPLICATION TO SHORTEN TIME FOR NOTICE AND ADVANCE HEARING DATE FOR RESPONDENT'S MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S PETITION FOR PEREMPTORY WRIT OF MANDAMUS

on all interested parties in this action by placing ☐ the original or ☒ a true copy of the original thereof enclosed in sealed envelopes addressed as follows:

Robert Borton, Esq.  
 Christin J. Hill, Esq.  
 Daniel Kaufman, Esq.  
 Heller Ehrman LLP  
 333 Bush Street  
 San Francisco, CA 94104-2878  
 Tel: (415) 772-6000  
 Fax: (415) 772-6268  
 Attorney for Plaintiff HO RIM KAM

☒ BY MAIL I deposited such envelope(s) with postage thereon fully prepaid in the United States mail at a facility regularly maintained by the United States Postal Service at San Francisco, California. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing, pursuant to this affidavit.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 23, 2007, at San Francisco, California.

  
 Kim Daleiden

**FILED**  
San Francisco County Superior Court

**AUG 17 2007**

GORDON PARK-I.I, Clerk  
BY: Jesselyn C. Ragsdale  
Deputy Clerk

1. ROBERT BORTON (Bar No. 53191)  
E-Mail: robert.borton@hellerehrman.com  
2. CHRISTIN J. HILL (Bar No. 247522)  
E-Mail: christin.hill@hellerehrman.com  
3. DANIEL KAUFMAN (Bar No. 246041)  
E-Mail: daniel.kaufman@hellerehrman.com  
4. HELLER EHRMAN LLP  
5. 333 Bush Street  
6. San Francisco, CA 94104-2878  
7. Telephone: (415) 772-6000  
8. Facsimile: (415) 772-6268

9. Attorneys for Petitioner  
10. HO RIM KAM

11. SUPERIOR COURT OF CALIFORNIA

12. COUNTY OF SAN FRANCISCO

13. HO RIM KAM,

14. Petitioner,

15. v.

16. MARTIN LUTHER KING, JR.-MARCUS  
17. GARVEY SQUARE COOPERATIVE BOARD  
18. OF DIRECTORS,

19. Respondent.

) Case No.: CPF 07-507493  
) LIMITED CIVIL CASE  
)  
) ~~[PROPOSED]~~ ORDER GRANTING  
) PETITIONER'S APPLICATION  
) FOR ORDER SHORTENING TIME  
) FOR NOTICE AND ADVANCING  
) HEARING DATE OF MOTION TO  
) FILE UNDER SEAL EXHIBIT E  
) FROM THE DECLARATION OF  
) HO RIM KAM AND THE  
) DECLARATION OF CHONG PARK  
) KAM

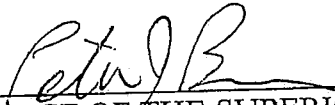
22. Date: August 17, 2007  
23. Time: 11:00 a.m.  
24. Dept.: 301

25. \_\_\_\_\_  
26. The ex parte application of petitioner Ho Rim Kam for shortening the time of notice  
27. and advancing the hearing date for Ho Rim Kam's Motion to File Under Seal Exhibit E of  
28. the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam came on regularly

1 for hearing before this Court with Heller Ehrman LLP appearing as attorney for petitioner.  
2 Notice of the ex parte application was properly made.

3 After full consideration of the moving papers, the Court GRANTS petitioner's  
4 application to shorten time of notice and advance the hearing date of the Motion to File  
5 Under Seal. It is ordered that Petitioner Ho Rim Kam's Motion to File Under Seal Exhibit  
6 E of the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam will be heard  
7 at 9:30 a.m. on August 22, 2007, prior to the hearing of the Kam's Application for a  
8 Peremptory Writ of Mandamus.

9  
10 DATED: 8/17/07

11   
12 JUDGE OF THE SUPERIOR COURT  
13 PETER J. BUSCH  
14  
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28

1 ROBERT BORTON (Bar No. 53191)  
2 E-Mail: robert.borton@hellerehrman.com  
3 CHRISTIN J. HILL (Bar No. 247522)  
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7 HELLER EHRMAN LLP  
8 333 Bush Street  
9 San Francisco, CA 94104-2878  
10 Telephone: (415) 772-6000  
11 Facsimile: (415) 772-6268

12 Attorneys for Petitioner  
13 HO RIM KAM

14 SUPERIOR COURT OF CALIFORNIA  
15 COUNTY OF SAN FRANCISCO

16 HO RIM KAM,

17 Petitioner,

18 v.

19 MARTIN LUTHER KING, JR.-MARCUS  
20 GARVEY SQUARE COOPERATIVE BOARD  
21 OF DIRECTORS,

22 Respondent.

ENDORSED  
FILED  
San Francisco County Superior Court

AUG 20 2007

GORDON PARK-LI, Clerk  
BY: WESLEY RAMIREZ Deputy Clerk

) Case No.: CPF 07-507493  
) LIMITED CIVIL CASE

) **PROOF OF SERVICE BY HAND**  
) **DELIVERY**

1 **PROOF OF SERVICE BY HAND DELIVERY**

2  
3 I, Dawn Halverson, declare that I am over the age of eighteen years and I am not a  
4 party to this action. I am employed with the law firm of Heller Ehrman LLP, whose  
5 business address is 333 Bush Street, San Francisco, California 94104.

6 On August 17, 2007, I served the following documents:

7  
8 **ORDER GRANTING PETITIONER'S APPLICATION FOR ORDER**  
9 **SHORTENING TIME FOR NOTICE AND ADVANCING HEARING DATE**  
10 **OF MOTION TO FILE UNDER SEAL EXHIBIT E FROM THE**  
11 **DECLARATION OF HO RIM KAM AND THE DECLARATION OF CHONG**  
12 **PARK KAM**

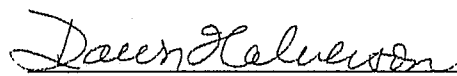
13 **EX PARTE APPLICATION TO SHORTEN TIME FOR NOTICE AND**  
14 **ADVANCE HEARING DATE FOR HO RIM KAM'S MOTION TO FILE**  
15 **UNDER SEAL EXHIBIT E FROM THE DECLARATION OF HO RIM KAM**  
16 **AND THE DECLARATION OF CHONG PARK KAM (CRC § 3.1200);**

17 on the parties to this action by hand delivery as indicated below:

18 Carlos Levexier  
19 Martin Luther King, Jr.-Marcus Garvey Square Cooperative  
20 1680 Eddy Street  
21 San Francisco, CA 94115

22 [X] BY PERSONAL SERVICE: I caused a sealed envelope addressed as indicated  
23 above to be delivered by hand by Spin Cycle Messenger Services.

24 I declare under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct and that this proof of service was executed on August 17, 2007  
26 at San Francisco, California.

27   
28 Dawn Halverson

*Pleading*

ROBERT BORTON (Bar No. 53191)  
 E-Mail: robert.borton@hellerehrman.com  
 CHRISTIN J. HILL (Bar No. 247522)  
 E-Mail: christin.hill@hellerehrman.com  
 DANIEL KAUFMAN (Bar No. 246041)  
 E-Mail: daniel.kaufman@hellerehrman.com  
 HELLER EHRMAN LLP  
 333 Bush Street  
 San Francisco, CA 94104-2878  
 Telephone: (415) 772-6000  
 Facsimile: (415) 772-6268

ENDORSED  
 FILED  
 San Francisco County Superior Court

AUG 17 2007

GORDON PARK-LI, Clerk  
 BY: WESLEY RAMIREZ  
 Deputy Clerk

Attorneys for Petitioner  
 HO RIM KAM

SUPERIOR COURT OF CALIFORNIA  
 COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

v.

MARTIN LUTHER KING, JR.-MARCUS  
 GARVEY SQUARE COOPERATIVE BOARD  
 OF DIRECTORS,

Respondent.

Case No.: CPF 07-507493  
 LIMITED CIVIL CASE

**EX PARTE APPLICATION TO  
 SHORTEN TIME FOR NOTICE  
 AND ADVANCE HEARING DATE  
 FOR HO RIM KAM'S MOTION TO  
 FILE UNDER SEAL EXHIBIT E  
 FROM THE DECLARATION OF  
 HO RIM KAM AND THE  
 DECLARATION OF CHONG PARK  
 KAM (CRC §3.1200);  
 DECLARATION OF DANIEL  
 KAUFMAN**

Date: August 17, 2007  
 Time: 11:00 a.m.  
 Dept.: 301



APPLICATION

This is a mandamus action brought by Petitioner Ho Rim Kam against Defendant Martin Luther King, Jr.-Marcus Garvey Square Cooperative Board of Directors to admit Mr. Kam to the use and enjoyment of his office as Director and Treasurer of the Board. On August 7, 2007, Petitioner filed an Application for Peremptory Writ of Mandamus along with supporting documents, including the Declarations of Ho Rim Kam and Chong Park Kam. Included in the declarations as Exhibit E are monthly rent rolls from the Martin Luther King, Jr.-Marcus Garvey Square Cooperative that contain private financial information of certain Cooperative shareholders. To protect these shareholders' privacy, Petitioner filed a Motion to File Under Seal Exhibit E of the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam. That motion was also filed on August 7, 2007.

California Code of Civil Procedure §1088 provides a ten day notice provision for writs of mandate. California Code of Civil Procedure §1005 provides a sixteen day notice provision for the motion to file under seal. To satisfy the notice requirements of both CCP §1088 and §1005, we set the hearing date for the writ of mandamus on August 22, 2007 and the hearing date for the motion to file under seal for August 29, 2007.

For the sake of judicial efficiency and to ensure the court has the complete set of information that was filed with the writ of mandate, it is necessary for Mr. Kam's Motion to File Under Seal to be heard prior to the Petition for Peremptory Writ of Mandamus. Accordingly, we respectfully request the Court enter an order granting Mr. Kam's Motion to File Under Seal be heard on August 22, 2007, prior to Mr. Kam's Petition for Peremptory Writ of Mandamus.

DATED: August 17, 2007

Respectfully submitted,

HELLER EHRMAN LLP

By 

DANIEL KAUFMAN  
Attorneys for Petitioner  
HO RIM KAM



**DECLARATION OF DANIEL KAUFMAN**

I, Daniel Kaufman, declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am an associate of the law firm Heller Ehrman LLP, and I am an attorney of record for Ho Rim Kam, petitioner in this action. I make this declaration in support of his Application For An Order Shortening Time For Notice and Advancing the Hearing Date of Motion to File Under Seal Exhibit E to the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam. I have actual knowledge of the matters set forth in this declaration, and if called as a witness would competently so testify.

2. On August 7, 2007, Petitioner filed an Application for Peremptory Writ of Mandamus and a Motion to File Under Seal Exhibit E of the Declaration of Ho Rim Kam and Chong Park Kam. The notice requirement for the writ of mandamus is ten days according to California Code of Civil Procedure §1088. However, the notice requirement for the motion to file under seal is sixteen court days according to California Code of Civil Procedure §1005. To satisfy the notice requirements of both CCP §1088 and §1005, we set the hearing date for the writ of mandamus on August 22, 2007 and the we set the hearing date for the motion to file under seal for August 29, 2007.

3. We served Carlos Levexier, President of the Martin Luther King, Jr.-Marcus Garvey Square Cooperative Board of Directors ("the Board"), with Mr. Kam's Petition for Writ of Mandamus and accompanying papers, and Mr. Kam's Motion to File Under Seal Exhibit E of the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam and accompanying papers, on August 8, 2007. Since that date, we have not been contacted by the Board or an attorney purporting to represent the Board.

4. My colleague Robert Borton and I spoke with Mr. Levexier by phone at approximately 4:00 p.m. on August 15, 2007. During that conversation, Mr. Levexier informed us that the Board had not retained counsel for this matter. As required by California Rule of Court 3.1203, we gave Mr. Levexier notice that Mr. Kam would make this ex parte application at 11:00 a.m. on Friday, August 17, 2007. We also explained that

1 the purpose of this application is to have both the Petition for Writ of Mandamus and the  
2 Motion to File Under Seal heard on the same day. It was my understanding from that  
3 conversation that the Board would not oppose this application.

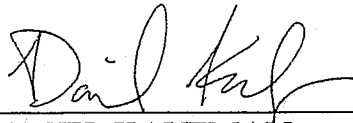
4 5. I sent an email to Mr. Levexier later that night memorializing our  
5 conversation. At the request of Mr. Levexier, I also copied Sharon Jones, another Director  
6 of the Board.

7 6. This application is brought under Local Rule 9 and California Rule of Court  
8 §3.1200-3.1207.

9  
10  
11 DATED: August 17, 2007

Respectfully submitted,

12 HELLER EHRMAN LLP

13  
14 By   
15 DANIEL KAUFMAN  
16 Attorneys for Petitioner  
17 HO RIM KAM  
18  
19  
20  
21  
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23  
24  
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**PROOF OF SERVICE BY HAND DELIVERY**

I, Daniel Kaufman, declare that I am over the age of eighteen years and I am not a party to this action. I am employed with the law firm of Heller Ehrman LLP, whose business address is 333 Bush Street, San Francisco, California 94104.

On August 17, 2007, I served the following document:

**EX PARTE APPLICATION TO SHORTEN TIME FOR NOTICE AND  
ADVANCE HEARING DATE FOR HO RIM KAM'S MOTION TO FILE  
UNDER SEAL EXHIBIT E FROM THE DECLARATION OF HO RIM KAM  
AND THE DECLARATION OF CHONG PARK KAM (CRC § 3.1200);**

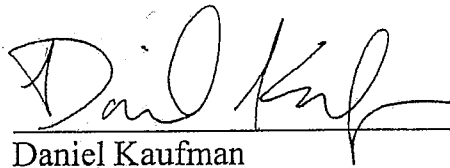
**DECLARATION OF DANIEL KAUFMAN**

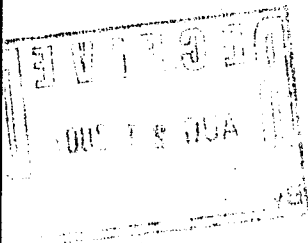
on the parties to this action by hand delivery as indicated below:

Carlos Levexier  
San Francisco Superior Court  
400 McAllister Street  
San Francisco, CA 94102

☒ **BY HAND DELIVERY.** I personally hand delivered a copy of the document.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this proof of service was executed on August 17, 2007 at San Francisco, California.

  
Daniel Kaufman



1 ROBERT BORTON (Bar No. 53191)  
E-Mail: robert.borton@hellerehrman.com  
2 CHRISTIN J. HILL (Bar No. 247522)  
E-Mail: christin.hill@hellerehrman.com  
3 DANIEL KAUFMAN (Bar No. 246041)  
E-Mail: daniel.kaufman@hellerehrman.com  
4 HELLER EHRMAN LLP  
5 333 Bush Street  
6 San Francisco, CA 94104-2878  
7 Telephone: (415) 772-6000  
Facsimile: (415) 772-6268

8 Attorneys for Petitioner  
9 HO RIM KAM

ENDORSED FILED  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

AUG 07 2007

GORDON PARK-LI, CLERK

BY: \_\_\_\_\_  
Deputy Clerk

10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

13 HO RIM KAM,

14 Petitioner,

15 v.

16 MARTIN LUTHER KING, JR.-MARCUS  
17 GARVEY SQUARE COOPERATIVE BOARD  
18 OF DIRECTORS,

19 Respondent.

) Case No.: CPF07-507493

) LIMITED CIVIL CASE

) **HO RIM KAM'S NOTICE OF**  
) **MOTION AND MOTION TO FILE**  
) **UNDER SEAL EXHIBIT E FROM**  
) **THE DECLARATION OF HO RIM**  
) **KAM AND THE DECLARATION**  
) **OF CHONG PARK KAM**

) Date: August 29, 2007

) Time: 9:30 a.m.

) Department: 301

23 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

24 PLEASE TAKE NOTICE that on August 29, 2007 at 9:30 a.m., or as soon thereafter  
25 as the matter may be heard, in Department 301 of the Superior Court of California of the  
26 County of San Francisco, located at 400 McAllister Street, San Francisco, California 94102-  
27 4514, Petitioner Ho Rim Kam will and hereby does move this Court for an order filing  
28 under seal Exhibit E to the Declaration of Ho Rim Kam and the Declaration of Chong Park

NOTICE OF MOTION AND MOTION TO FILE UNDER SEAL EXHIBIT E FROM THE DECLARATION OF HO

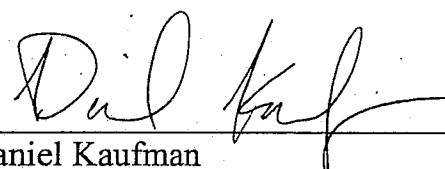
1 Kam, which is filed herewith.

2 This Motion is based on this Notice of Motion and Motion, the Memorandum of  
3 Points and Authorities, and the Declaration of Daniel Kaufman; Petitioner's Application for  
4 Issuance of Peremptory Mandate; all pleadings and papers filed in this action; and such  
5 other evidence and argument to be presented at the hearing on this motion.

6  
7 DATED: August 7, 2007

HELLER EHRMAN LLP

8  
9  
10 By

  
Daniel Kaufman  
Attorneys for Petitioner  
HO RIM KAM

11  
12  
13  
14  
15 SF 1396766 v1  
8/7/07 11:52 AM (98050.1259)

ROBERT BORTON (Bar No. 53191)  
E-Mail: robert.borton@hellerehrman.com  
CHRISTIN J. HILL (Bar No. 247522)  
E-Mail: christin.hill@hellerehrman.com  
DANIEL KAUFMAN (Bar No. 246041)  
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333 Bush Street  
San Francisco, CA 94104-2878  
Telephone: (415) 772-6000  
Facsimile: (415) 772-6268

Attorneys for Petitioner  
HO RIM KAM

ENDORSED FILED  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

AUG 07 2007

GORDON PARK-LI, CLERK

By: Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

v.

MARTIN LUTHER KING, JR.-MARCUS  
GARVEY SQUARE COOPERATIVE BOARD  
OF DIRECTORS,

Respondent.

) Case No.: CPF07-507493  
) LIMITED CIVIL CASE  
)  
)  
) **DECLARATION OF DANIEL**  
) **KAUFMAN IN SUPPORT OF**  
) **MOTION TO FILE UNDER SEAL**  
) **EXHIBIT E TO THE DECLARATION**  
) **OF HO RIM KAM AND THE**  
) **DECLARATION OF CHONG PARK**  
) **KAM**  
)

Date: August 29, 2007

Time: 9:30 a.m.

Department: 301

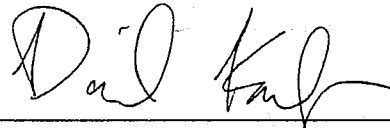
I, Daniel Kaufman, declare as follows:

1. I am an attorney at law, duly licensed to practice in the State of California, an associate in the law firm of Heller Ehrman LLP, and counsel for Petitioner Ho Rim Kam. Except where otherwise stated, I have personal knowledge of the facts contained in this declaration, and if called as a witness, I would testify competently to the facts stated herein.

2. I submit this declaration in support of Petitioner' Motion to File under Seal the Exhibit E to the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam, the King-Garvey monthly rent records for October, 2006 through April, 2007.

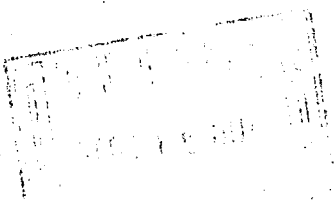
3. I have served as counsel for Mr. Kam since April, 2006. I am informed and believe that Exhibit E has never been publicly disseminated.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed this 7th day of August, 2007.



Daniel Kaufman

SF 1396909 v1  
8/7/07 11:58 AM (98050.1259)



1 ROBERT BORTON (Bar No. 53191)  
2 E-Mail: robert.borton@hellerehrman.com  
3 CHRISTIN J. HILL (Bar No. 247522)  
4 E-Mail: christin.hill@hellerehrman.com  
5 DANIEL KAUFMAN (Bar No. 246041)  
6 E-Mail: daniel.kaufman@hellerehrman.com  
7 HELLER EHRMAN LLP  
8 333 Bush Street  
9 San Francisco, CA 94104-2878  
10 Telephone: (415) 772-6000  
11 Facsimile: (415) 772-6268

12 Attorneys for Petitioner  
13 HO RIM KAM

ENDORSED FILED  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

AUG 07 2007

GORDON PARK-LI, CLERK  
By: Deputy Clerk

14 SUPERIOR COURT OF CALIFORNIA

15 COUNTY OF SAN FRANCISCO

16 HO RIM KAM,

17 Petitioner,

18 v.

19 MARTIN LUTHER KING, JR.-MARCUS  
20 GARVEY SQUARE COOPERATIVE BOARD  
21 OF DIRECTORS,

22 Respondent.

) Case No.: CPF07-507493

) LIMITED CIVIL CASE

)  
)  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES OF PETITIONER IN**  
) **SUPPORT OF MOTION TO FILE**  
) **UNDER SEAL EXHIBIT E TO THE**  
) **DECLARATION OF HO RIM KAM**  
) **AND THE DECLARATION OF**  
) **CHONG PARK KAM**  
)

23 Date: August 29, 2007

24 Time: 9:30 a.m.

25 Department: 301

26 **I. INTRODUCTION**

27 Petitioner Ho Rim Kam ("Mr. Kam") hereby moves this Court for leave to file under  
28 seal Exhibit E to the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam  
because that exhibit is the rent records for the Martin Luther King, Jr.-Marcus Garvey  
Square Cooperative ("King-Garvey") that contains financial information that some may not



1 who voted to remove Mr. Kam was in arrears at the time of the Board vote.

### 3 **III. ARGUMENT**

4 Pursuant to California Rule of Court 2.550(d), the court "may order that a record be  
5 filed under seal if it finds that (1) there exists an overriding interest that overcomes the right  
6 of public access to the record; (2) the overriding interest supports sealing the record; (3) a  
7 substantial probability exists that the overriding interest will be prejudiced if the record is  
8 not sealed; and (4) the proposed sealing is narrowly tailored; and (5) no less restrictive  
9 means exists to achieve the overriding interest."

10 California courts have held that a contractual obligation not to disclose can constitute  
11 an overriding interest within the meaning of [rule 2.550(d) precursor] rule 243.1(d)."  
12 *Universal City Studios, Inc. v. Superior Court*, 110 Cal.App.4th 1273, 1283 (2003).  
13 Further, California courts recognize that individuals have a privacy interest in their financial  
14 records. *See, e.g., Gordon v. Superior Court*, 55 Cal. App. 4th 1546, 1557 (1997); *Valley*  
15 *Bank of Nevada v. Superior Court*, 15 Cal. 3d 652, 656 (1975).

16 The King-Garvey rent records arguably contain financial information. There is no  
17 explicit contractual obligation not to disclose the King-Garvey residents' financial  
18 information. However, out of an excess of caution and in light of the fact that it is likely  
19 that people would not want their financial information contained in Exhibit E to be revealed  
20 to the public, Petitioner makes this motion.

21 The proposed sealing is narrowly tailored and no less restrictive means exist.  
22 Information irrelevant to the case has been redacted and this is the only official log  
23 containing the King-Garvey rent records in existence.

### 24 **IV. CONCLUSION**

25 For the foregoing reasons, petitioner Ho Rim Kam requests that the Court order  
26 Exhibit E to the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam be  
27 filed under seal.  
28

1  
2 DATED: August 7, 2007

Respectfully submitted,

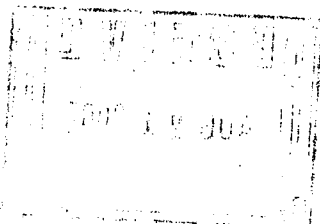
3 HELLER EHRMAN LLP

4  
5 By



Daniel Kaufman  
Attorneys for Petitioner  
HO RIM KAM

6  
7  
8  
9  
10 SF 1396777 v1  
8/7/07 11:54 AM (98050.1259)



1 wish be made public. This Court has the authority under California Rule of Court Rule  
2 2.550(d) to seal the exhibit.

## 3 **II. BACKGROUND**

### 4 **Factual Background**

5 This lawsuit arises from the efforts of the King-Garvey Board of Directors to  
6 illegally remove the Treasurer of the Board, Ho Rim Kam due to an alleged delinquency in  
7 Mr. Kam's rent payments. The issues that this lawsuit presents are likely to turn on the  
8 records kept by the King-Garvey Management Agent, the John Stewart Company  
9 ("Management Agent"), and the King-Garvey Property Manager, Anna Lokshina.

10 In 2006, Mr. Kam and his wife, Chong Park Kam, were informed that HUD believed  
11 the Kams had failed to report an asset on their Section 8 housing assistance applications  
12 from 2001 through 2004. From November, 2006 through February, 2007, the Kams  
13 participated in negotiations with Loren Sanborn, a representative of the Management Agent,  
14 to determine if they should have reported the asset, and if so, how to properly value the  
15 asset for purposes of determining the correction amount. On February 23, 2007, Ms.  
16 Sanborn sent a memorandum to the Board explaining the Kam negotiations and stating that  
17 she would post the amount due, \$9,052, to the Kams' account on the following Monday,  
18 February 26, 2007.

19 Despite continuing to contest the amount due, the Kams paid the entire \$9,052 on  
20 March 7, 2007 when Mrs. Kam placed a cashier's check in the King-Garvey drop-box.

21 On March 13, 2007, the Board voted to remove Mr. Kam from the Board citing a  
22 provision in the King-Garvey By-laws that a Director is automatically terminated from the  
23 Board if he or she is thirty days delinquent in paying the Coop's carrying charges.

24 The Management Agent and Property Manager maintain detailed rent records for  
25 every resident of King-Garvey. These records are available to a limited number of people  
26 (including Board members) because they contain the residents' confidential financial  
27 information. At no time during the relevant time period, do the King-Garvey rent records  
28 show the Kams as delinquent. However, the rent records do show that one of the Directors

Phad

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 CHRISTIN J. HILL (Bar No. 247522)  
 E-Mail: christin.hill@hellerehrman.com  
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 333 Bush Street  
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 Facsimile: (415) 772-6268

Attorneys for Petitioner

HO RIM KAM

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

HO RIM KAM,

Petitioner,

v.

MARTIN LUTHER KING, JR.-MARCUS  
 GARVEY SQUARE COOPERATIVE BOARD  
 OF DIRECTORS,

Respondent.

) Case No.: CPF07-507493  
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) **[PROPOSED] ORDER GRANTING**  
 ) **MOTION TO FILE UNDER SEAL**  
 ) **EXHIBIT E OF THE**  
 ) **DECLARATION OF HO RIM KAM**  
 ) **AND THE DECLARATION OF**  
 ) **CHONG PARK KAM**

)  
 ) Date: August 29, 2007  
 ) Time: 9:30 a.m.  
 ) Department: 301

The motion of Petitioner Ho Rim Kam for an order filing under seal Exhibit E to the Declaration of Ho Rim Kam and the Declaration of Chong Park Kam came on for hearing at 9:30 a.m. on August 29, 2007 in Department 301 of this Court. Having considered the parties' filings and written and oral arguments and good cause appearing, the Court finds the following pursuant to California Rule of Court 2.550, *et seq.*:

I. Exhibit E of the Declaration of Ho Rim Kam and the Declaration of Chong

1 Park Kam contains confidential and sensitive information, and the overriding interest in  
2 protecting the confidentiality of that information overcomes the right of public access to the  
3 record;

4 2. The overriding interest supports sealing the records;

5 3. A substantial probability exists that the overriding interest will be prejudiced  
6 if the records are not sealed;

7 4. The proposed sealing is narrowly tailored; and

8 5. No less restrictive means exist to achieve the overriding interest.

9 Accordingly, it is hereby ORDERED that Exhibit E to the Declaration of Ho Rim  
10 Kam and the Declaration of Chong Park Kam be filed under seal, for inspection only by the  
11 Court and its personnel.

12 **IT IS SO ORDERED.**

13  
14 Dated: \_\_\_\_\_ Hon. \_\_\_\_\_

15 Judge of the Superior Court of the State of California  
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18 SF 1397101 v1  
19 8/7/07 11:56 AM (98050.1259)  
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